

June 12, 2007

6/19/07 BdMtg Item 10
WR Enforcement
Deadline: 6/6/07 Noon

Ms. Song Her
Clerk to the Board
State Water Resources Control Board
1001 "I" Street, 24th Floor
Sacramento, CA 95814



Dear Ms. Her:

Subject: Water Right Enforcement Workshop

In response to the notice dated May 3, 2007 pertaining to the State Water Resources Control Board (State Water Board) June 19, 2007 "Workshop to Receive Information Regarding Policy Direction on Water Right Enforcement", the Southern California Edison Company (SCE) submits these comments. SCE has many water rights associated with its hydroelectric projects and its water supply operations on Santa Catalina Island. For example, our hydroelectric water conveyance and storage facilities have 27 licenses, 18 Permits, and 37 Supplemental Statements of Water Diversion and Use for locations at which water use started prior to creation of the Water Commission Act of 1913.

SCE recommends that the State Water Board's consider the following factors in enforcing water rights:

1. Do not enforce administratively against riparian water uses and other uses that were established prior to 1914 and for which Supplemental Statements of Diversion and Use are currently being filed. These water uses are under the purview of California courts.
2. Prioritize enforcement actions taking into consideration the adverse environmental and economic impacts caused by the violation and the long-term versus short-term nature of a violation.
3. Do not expand the geographic scope of AB 2121 until the State Water Board develops principles and guidelines for maintaining instream flows that are tailored for individual streams in other watersheds. The State Water Board staff likely already recognize that different streams have different beneficial uses and the natural resources within each stream may have different flow requirements. This will be a long term effort and will require substantial staff time and money. The State Water Board must ensure that it has the resources necessary to complete this work prior to expanding the undertaking. Additionally, as the State Water Board Notice indicated, there are many outstanding applications and permits for water rights. SCE

recommends that the current backlog of applications and permits in other watersheds be fully processed prior to expanding the geographic scope of AB 2121.

- 4 Prior to the initiation of formal enforcement actions for potential violations, other than egregious actions, such as those that are damaging to personal property or the environment, provide an opportunity for correcting non-compliance within 60 to 120 days after notice, or such other reasonable period as may be required under the particular circumstances of the water use.

If you have any questions regarding these SCE comments, please contact me

Sincerely

A handwritten signature in black ink, appearing to read "Nino J. Mascolo", with a long horizontal flourish extending to the right.

Nino J. Mascolo

cc: Brian McGurty
Michael Hertel